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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/895,027      | 06/29/2001  | Olaf Isele           | 8610                | 7458             |

27752 7590 06/10/2003

THE PROCTER & GAMBLE COMPANY  
INTELLECTUAL PROPERTY DIVISION  
WINTON HILL TECHNICAL CENTER - BOX 161  
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CINCINNATI, OH 45224

EXAMINER

CHANNAVAJALA, LAKSHMI SARADA

| ART UNIT | PAPER NUMBER |
|----------|--------------|
|----------|--------------|

1615

DATE MAILED: 06/10/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/895,027

Applicant(s)

ISELE ET AL.

Examiner

Lakshmi S Channavajjala

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 21 February 2003 and 11 March 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 8.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

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### **DETAILED ACTION**

Receipt of Information disclosure statement dated 2-12-03 and request for reconsideration dated 3-11-03 is acknowledged.

Claims 1-20 are pending.

#### ***Claim Rejections - 35 USC § 103***

Claims 1-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over WO 00/64502 (hereafter WO).

Instant claims are directed to an article such as a diaper or a sponge, comprising a porous substrate having a contacting surface and an opposing surface, wherein the contacting surface is disposed with a s beneficial agent and a means for minimizing migration of the beneficial agent into the porous substrate, whereby the ratio of the amount of beneficial component present in the top third portion of the substrate is about 2.2 times the amount of the beneficial agent present in the bottom 2/3 portion of the substrate. Dependents claims further define beneficial agents, disposing the beneficial agent in layers and method of top-biasing a composition on a porous substrate.

WO teaches an absorbent article having a liquid impermeable outer surface, a middle absorbent portion and a top liquid permeable body side liner facing the wearer (see figure 2 of WO). WO teaches that the bodyside liner may be made of woven or nonwoven materials, less hydrophilic to be dry, porous (page 12, lines 15-32). The bodyside liner includes a lotion formulation on the outer bodyfacing surface and is comprises wax, emollient and a viscosity enhancer, that acts as a lubricant to reduce the abrasion of skin caused by liner and also transfers to the skin to provide improved skin health (abstract, page 13, lines 15-22) including fatty

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alcohols, lanolin or lanolin derivatives, petroleum based oils (page 13, lines 22-35), waxes for immobilizing the emollient and reduce its tendency to migrate (page 14), viscosity enhancers such as talc, silica, cellulose and modified cellulose derivatives and other skin treating compounds such as glycerin, zinc oxide, etc (page 15 and 16). WO does not teach the claimed thickness of the beneficial components on the porous substrate i.e., 2.2 times more in the top third portion of the porous substrate than the bottom 2/3 portion. However, WO suggests that the lotion formulation be applied to the entire body face or may be applied selectively to particular sections, so as to provide greater lubricity to such sections and can be applied in stripes (page 18, lines 26-33) and suggests adding the lotion to about 25% of the body facing surface of the bodyside liner. Therefore, it would have been obvious for one of an ordinary skill in the art at the time of the instant invention to apply the lotion composition in a desired thickness or amounts i.e., as a uniform layer or stripes or layers or gradients and still expect the lotion to exhibit minimum migration because because WO suggests that the wax and viscosity enhancer containing lotion solidifies at the site of deposition due to the high melting agents and therefore do not migrate from their position (paragraph bridging pages 2-3). Further, WO teaches the lotion can be applied to the bodyside liner at 0.05-100 mg/sq. cm. Accordingly, it would have been within the scope of a skilled artisan to optimize the amounts of lotion applied on the absorbent applied on the article. The expected result would be a minimum migration of the solidified components applied to the bodyside line. A careful review of the instant specification also reveals that the same end result i.e., minimizing the migration of lotion is achieved by the applicants by incorporating viscosity enhancing agents (page 18) and hydrophobic agents such as

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wax, both of which are taught by WO. Further, WO states that a z-direction migration loss test shows that the migration of the lotion on the absorbent article is very low.

Applicant's submission of an information disclosure statement under 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p) on 2-21-03 prompted the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 609(B)(2)(i). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lakshmi S Channavajjala whose telephone number is 703-308-2438. The examiner can normally be reached on 7.30 AM -4.00 PM.

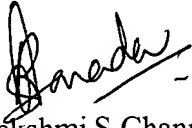
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thurman K Page can be reached on 703-308-2927. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-7924 for regular communications and 703-308-7924 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1235.



Lakshmi S Channavajjala

Examiner

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